Docket No.: 66703-0002
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Christopher L. Knauft et al.

Confirmation No.: 6923

Application No.: 09/456,793

Art Unit: 2176

Filed: December 8, 1999

Examiner: M. Nguyen

For: SYSTEM AND METHOD OF DYNAMICALLY GENERATING INDEX INFORMATION

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Notice of Non-Compliant Appeal Brief dated December 26, 2007, rejected the Appeal Brief filed October 2, 2007, because the "Summary of Claimed Subject Matter" appearing in the Appeal Brief was allegedly deficient. In response, Applicants respectfully submit that the brief provided "a concise explanation of the subject matter. . . which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters." Nevertheless, additional explanation of the subject matter is provided in response hereto in an updated "Summary of Claimed Subject Matter" including additional explanation and reference to further exemplary portions of the specification or drawings. Therefore, while Applicants believe the stated defect in the Notice of Non-Compliance was in error, the concerns raised by the Examiner are respectively believed to have been addressed.

This appeal is from the decision of the Primary Examiner dated April 16, 2007 ("Final Office Action") finally rejecting claims 1-27, which are reproduced in an Appendix to this brief. A Notice of Appeal under 37 CFR §41.31 was filed on August 2, 2007. This application was filed on December 8, 1999.

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST

The real party in interest is Idearc Media Corp., Assignee, a corporation organized and existing under the laws of the state of Delaware, and having a place of business at 2200 W. Airfield Dr., P.O. Box 619810, DFW Airport, Texas, 75261-9810.

II. RELATED APPEALS AND INTERFERENCES

Applicants (hereinafter "Appellants") are not aware of any related appeals or interferences that would affect the Board's decision on the current appeal.

III. STATUS OF CLAIMS

Claims 1-27 are pending and are the subject of this appeal. Claims 1, 12, 19, and 25 are independent claims. No claims have been canceled or withdrawn.

In the Final Office Action, the Examiner rejected claims 1-27 under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,864,863 ("Burrows") in view of U.S. Patent Number 5,935,210 ("Stark").

IV. STATUS OF AMENDMENTS

Appellants did not propose any amendments to this application following the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The presently claimed invention includes various methods, systems, and computer programs disposed on computer readable media. The following is a concise explanation of the subject matter defined in each of the claims involved in the appeal, as required by 37 C.F.R. § 41.37(c)(1)(v). In general, the following explanation is not intended to be used to construe or limit the claims, which are believed to speak for themselves, nor do Appellants intend the following explanation to modify or add any claim elements, or to constitute a disclaimer of any equivalents to which the claims would otherwise be entitled, nor is any discussion of certain preferred embodiments herein intended to disclaim other possible embodiments. References herein to the Specification are intended to be exemplary and not limiting. Reference numbers provided below are reference numbers used in Appellants' specification and drawings.

A. Claim 1

Claim 1 recites a computerized method of providing index information for secure audiovisual objects to a search engine system. The method comprises converting at least a portion of a secure audiovisual object into index information, wherein the index information is structured for use in an index database of a search engine system. For example, as described in the Specification referring to state 512 of Figure 5, a server computer converts all or selected portions of the source data object into machine readable characters that will collectively comprise an initial set of index information for the source data object. (Specification, page 18, lines 26-28.) The Specification goes on to describe several examples of converting at least a portion of a secure audiovisual object into index information, including parsing a music file to identify lyrics, and employing optical character recognition software to identify one or more textual elements within a bitmap image. (Specification, page 18, line 29 – page 19, line 8.) In addition, as described with regard to states 512 and 514 of Figure 5, a server computer can select index information for the secure document by selecting textual portions of the source data object, such as was converted at state 512, or portions of the source data object that is already in textual form. (Specification, page 19, lines 15-18.)

The method further recites that the secure audiovisual object is secure, in that search engine systems do not have full access to the secure audiovisual object. For example, secure documents, such as secure audio visual objects, may be protected by DRM software, or some other secure software. (Specification, page 2, lines 13-20.) Furthermore, such software does not permit unrestricted access, but restricts access to those applications that are both authorized and trusted by the secure software, and prevents all other applications from accessing the protected document, audiovisual object. (Specification, page 2, lines 20-23.)

The method further comprises obfuscating at least a portion of the index information so that the intelligibility of the contents of the index information is reduced. For example, the server computer obfuscates the index information such that if the index information was viewed by a user, the user would not be able to easily reconstruct the original content of the source data object. (Specification, page 20, lines 23-28.) The obfuscation process is described in further detail with reference to Figure 10 in the Specification on page 23, line 5 – page 25, line 2.

The method further comprises transmitting the obfuscated index information to the search engine system, wherein the obfuscated index information is for use in the index database of the search engine system. For example, a server computer can dynamically generate an electronic document that comprises the index information for the source data object, where the term "dynamical generates" includes transmitting a pre-prepared electronic document that is associated with the URL and that is customized for a selected requestor. (Specification, page 9, lines 16-23.) Furthermore, the server computer can transmit an electronic document having index or other descriptive information regarding the source data object. (Specification, page 11, lines 29-31.)

B. Claim 2

Claim 2 depends from claim 1. Claim 2 further comprises dynamically generating an electronic document that comprises at least a portion of the obfuscated index information. For example, the term "dynamically generates" can include (i) preparing in real-time an electronic document or (ii) transmitting a pre-prepared electronic document that is associated with the URL and that is customized particularly for a selected requestor. (Specification, page 9, lines 20-23.)

C. Claim 3

Claim 3 depends from claim 2, which depends from claim 1. Claim 3 recites that dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document. For example, the server computer can generate customized index information on the fly based upon the indexing characteristics of the IR system. (Specification, page 30, lines 19-20.)

D. Claim 7

Claim 7 depends from claim 6, which depends from claim 1. Claim 7 recites that converting at least a portion of the secure audiovisual object into index information text comprises identifying one or more words in the lyrics of the music. For example, if the source data object comprises a music file, the server computer may parse the music file to identify any words that are included within the lyrics of the music. (Specification, page 18, lines 29-31.)

E. Claim 9

Claim 9 depends from claim 8, which depends from claim 1. Claim 9 recites that converting at least a portion of the secure audiovisual object into index information comprises reading close captioned information that is associated with the secure audiovisual object. For example, if the source data object is a multimedia and/or a streaming media file, the server computer may read and store any close captioned information that is associated with the file. (Specification, page 19, lines 3-5.)

F. Claim 12

Claim 12 recites a computerized method of providing index information for secure graphical or audio objects. The method comprises reading index information that is associated with a secure graphical or audio object, wherein the index information is structured for use in an index database of a search engine system. For example, a software program called a "spider" surveys electronic resources that are stored by computers connected to a network, where an electronic resource can comprise a dynamically prepared electronic document that is the output of scripts of a server computer. (Specification, page 9, lines 3-7.)

The method further recites that search engine systems do not have full access to the secure graphical or audio object, and wherein search engine systems do not have access to said index information associated with said secure graphical or audio object. For example, secure documents, such as secure audio visual objects, may be protected by DRM software, or some other secure software. (Specification, page 2, lines 13-20.) Furthermore, such software does not permit unrestricted access, but restricts access to those applications that are both authorized and trusted by the secure software, and prevents all other applications from accessing the protected document, audiovisual object. (Specification, page 2, lines 20-23.)

The method further comprises obfuscating at least a portion of the index information so that the intelligibility of the index information is reduced. For example, the server computer obfuscates the index information such that if the index information were viewed by a user, the user would not be able to easily reconstruct the original content of the source data object. (Specification, page 20, lines 23-28.) The obfuscation process is described in further detail with reference to Figure 10 in the Specification on page 23, line 5 – page 25, line 2.

The method further comprises transmitting the obfuscated index information to the search engine system, wherein the obfuscated index information is for use in the index database of the search engine system. For example, a server computer can dynamically generate an electronic document that comprises the index information for the source data object, where the term "dynamical generates" includes transmitting a pre-prepared electronic document that is associated with the URL and that is customized for a selected requestor. (Specification, page 9, lines 16-23.) Furthermore, the server computer can transmit an electronic document having index or other descriptive information regarding the source data object. (Specification, page 11, lines 29-31.)

G. Claim 13

Claim 13 depends from claim 12. Claim 13 further comprises dynamically generating an electronic document that comprises at least a portion of the obfuscated index information. For example, the term "dynamically generates" can include (i) preparing in real-time an electronic document or (ii) transmitting a pre-prepared electronic document that is associated with the URL and that is customized particularly for a selected requestor. (Specification, page 9, lines 20-23.)

H. Claim 14

Claim 14 depends from claim 12. Claim 14 recites that wherein dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document. For example, the server computer can generate customized index information on the fly based upon the indexing characteristics of the IR system. (Specification, page 30, lines 19-20.)

I. Claim 19

Claim 19 recites a system for generating index information for secure graphical or audio objects. The system comprises a web server connected to a network, the web server operable to manage a content owner's secure graphical or audio objects including granting and denying access to secure content requesters, wherein search engine systems are denied access to said objects. Referring to Appellants' Figure 1, the system operates in a computer network that provides a client/server environment, and generally includes a user 102, one or more servers 110, a client computer 115, and a computer network 116. (Specification, page 6, lines 7-12.)

The web server reads index information that is associated with a secure graphical or audio object, wherein the index information is structured for use in an index database of a search engine system. For example, a software program called a "spider" surveys electronic resources that are stored by computers connected to a network, where an electronic resource can comprise a dynamically prepared electronic document that is the output of scripts of a server computer. (Specification, page 9, lines 3-7.)

In addition, the secure graphical or audio object is secure in that the search engine system does not have full access to the secure graphical or audio object. For example, secure documents, such as secure audio visual objects, may be protected by DRM software, or some other secure software. (Specification, page 2, lines 13-20.) Furthermore, such software does not permit unrestricted access, but restricts access to those applications that are both authorized and trusted by the secure software, and prevents all other applications from accessing the protected document, audiovisual object. (Specification, page 2, lines 20-23.)

The web server also dynamically generates an electronic document based at least in part upon the contents of the index information. For example, the server computer dynamically generates an electronic document that comprises the index information for the source data object. (Specification, page 9, lines 18-20.)

The system further comprises said web server transmitting the electronic document to the search engine system, wherein index information within the electronic document is for use in the index database of the search engine system. For example, a server computer can dynamically generate an electronic document that comprises the index information for the source data object, where the term "dynamical generates" includes transmitting a pre-prepared electronic document that is associated with the URL and that is customized for a selected requestor. (Specification, page 9, lines 16-23.) Furthermore, the server computer can transmit an electronic document having index or other descriptive information regarding the source data object. (Specification, page 11, lines 29-31.)

J. Claim 20

Claim 20 depends from claim 19. Claim 20 recites that wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems. For example, the server computer can generate customized index information on the fly based upon the indexing characteristics of the IR system. (Specification, page 30, lines 19-20.)

K. Claim 25

Claim 25 recites a computerized method of generating index information for secure graphical or audio objects. The method comprises converting at least a portion of a secure graphical or audio object into index information, wherein the index information is structured for use in an index database of a search engine system. For example, as described in the Specification referring to state 512 of Figure 5, a server computer converts all or selected portions of the source data object into machine readable characters that will collectively comprise an initial set of index information for the source data object. (Specification, page 18, lines 26-28.) The Specification goes on to describe several examples of converting at least a portion of a secure audiovisual object into index information, including parsing a

music file to identify lyrics, and employing optical character recognition software to identify one or more textual elements within a bitmap image. (Specification, page 18, line 29 – page 19, line 8.) In addition, as described with regard to states 512 and 514 of Figure 5, a server computer can select index information for the secure document by selecting textual portions of the source data object, such as was converted at state 512, or portions of the source data object that is already in textual form. (Specification, page 19, lines 15-18.)

The method further recites that search engine systems do not have full access to the secure graphical or audio object. For example, secure documents, such as secure audio visual objects, may be protected by DRM software, or some other secure software. (Specification, page 2, lines 13-20.) Furthermore, such software does not permit unrestricted access, but restricts access to those applications that are both authorized and trusted by the secure software, and prevents all other applications from accessing the protected document, audiovisual object. (Specification, page 2, lines 20-23.)

The method further comprises dynamically generating an electronic document based at least in part upon the contents of the index information. For example, the server computer dynamically generates an electronic document that comprises the index information for the source data object. (Specification, page 9, lines 18-20.)

The method further comprises transmitting the electronic document to the search engine system, wherein index information within the electronic document is for use in a search-optimized index database of the search engine system. For example, a server computer can dynamically generate an electronic document that comprises the index information for the source data object, where the term "dynamical generates" includes transmitting a pre-prepared electronic document that is associated with the URL and that is customized for a selected requestor. (Specification, page 9, lines 16-23.) Furthermore, the server computer can transmit an electronic document having index or other descriptive information regarding the source data object. (Specification, page 11, lines 29-31.)

L. Claim 26

Claim 26 depends from claim 25. Claim 26 recites that wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems. For example, the server computer can generate customized index information on the fly based upon the indexing characteristics of the IR system. (Specification, page 30, lines 19-20.)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-27 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,864,863 ("Burrows") in view of U.S. Patent Number 5,935,210 ("Stark").

VII. ARGUMENT

I. The Law

With respect to Section 103 rejections, the Examiner has a burden of stating a prima facie case of obviousness. A prima facie case of obviousness has historically required that:

> First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

MPEP, § 2143 (citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

So long as the first requirement for a prima facie case of obviousness is not rigidly applied, requiring the Examiner to show some reason for combining prior art references is consistent with the United States Supreme Court's recent decision in KSR International Co. v. Teleflex, Inc., ___ U.S. ___, (April 30, 2007) (citations herein are taken from the Court's Bench Opinion). In KSR, the Supreme Court stated that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." (Id. at 12.) Additionally the court stated that

> it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.

(Id. at 15.) The Court further explained that

> What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under §103. One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims.

(Id. at 16.) Accordingly, the Court made clear that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known and in the prior art." (Id. at 14.) In summary, KSR plainly does not disturb the well-settled proposition that a prior art reference must be considered in its entirety, i.e., as a

whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert.* denied, 469 U.S. 851 (1984); M.P.E.P § 2141.02.

II. Ground of Rejection No. 1: Claims 1-27 Are Patentable Under 35 USC § 103(a) Over Burrows In View Of Stark.

A. The Combination of Burrows And Stark Does Not Teach Or Suggest All Of The Elements Of Appellants' Claims.

The combination of Burrows and Stark fails to teach or suggest numerous elements of Appellants' claims. Accordingly, for any one of the independent reasons set forth below, the Examiner's rejections of Appellants' claims should be reversed.

1. Claim 1

a) "converting at least a portion of a[n] . . . audiovisual object into index information . . ."

Independent claim 1 recites in part "converting at least a portion of a[n] . . . audiovisual object into index information." The Examiner alleged that Burrows teaches this recitation of claim 1. (Office Action, page 6, citing Burrows, col. 4, lines 27-44.)

However, Burrows says nothing at all about converting audiovisual objects into index information. At most, Burrows discloses that web pages can include multimedia content, including audiovisual objects. Specifically, Burrows discloses that "users . . . desire to access information records 122 stored by the servers 120 using . . . the World-Wide-Web (WWW)" and that "the records of information 122 can be in the form of Web pages 200. The pages 200 can be data records including . . . multimedia content, such as software programs, graphics, audio signals, videos, and so forth." (Burrows, 4: 30-38.) At most, Burrows discloses that web pages may include multimedia content. Burrows does not in any way teach or suggest converting such multimedia content into index information.

Because Burrows fails to teach or suggest "converting at least a portion of a[n] . . . audiovisual object into index information," the rejection of claim 1, and claims 2-11 that depend from claim 1, should be reversed.

2. Claims 1 and 12

a) "converting at least a portion of a secure audiovisual object into index information . . ." and "reading index information that is associated with a secure graphical or audio object . . ."

Independent claim 1 recites in part "converting at least a portion of a secure audiovisual object into index information." Independent claim 12 recites in part "reading index information that is associated with a secure graphical or audio object." The Examiner's rejection of claim 12, which was applied to claim 1 (Final Office Action, page 6), asserted that Burrows teaches "reading index information that is associated with a secure graphical or audio object." (Office Action, page 3.) However, Burrows says nothing at all about "secure" objects, much less indexing secure objects. Moreover, Stark has nothing at all to do with accessing secure audiovisual objects as recited in claims 1 and 12.

Secure audiovisual objects are significantly different from other audiovisual objects. Traditionally, search engines or information retrieval systems, "rely upon having full access to the contents of the document to prepare the index information for the document." (Specification, page 2, lines 15-16.) Secure audiovisual objects, on the other hand, are generally those audiovisual objects that are protected by digital rights management (DRM) software, or some other security measures, that do not permit such unrestricted access. (Specification, page 2, line 20.) Generally, access is restricted to those applications that are both authorized and trusted by the secure software. For security concerns, all other applications are prevented from accessing the protected document. (Specification, page 2, lines 13-23.)

Burrows does not teach or suggest any mechanism for accessing secure objects, much less a mechanism for accessing secure audiovisual objects. Instead, Burrows teaches a search engine with an "automated browser" that "periodically sends out requests" where the requests include URLs. (Burrows, 5: 13-16.) In response to the requests, the sites return records or web pages to the browser. (Burrows, 5: 15-17.) Plainly, such an automated browser cannot access a secure audiovisual object without permission. Burrows fails to teach that such a robot can bypass such security measures. Consequently, Burrows cannot teach or suggest indexing secure objects.

Because Burrows fails to teach or suggest "a secure audiovisual object," much less indexing secure objects, the rejections of claims 1 and 12, and also claims 2-11 and 13-18 depending therefrom respectively, should be reversed.

b) "wherein the secure audiovisual object is secure in that search engine systems do not have full access to the secure audiovisual object . . . " and "wherein search engine systems do not have full access to the secure graphical or audio object . . . "

Independent claim 1 recites in part "wherein the secure audiovisual object is secure in that search engine systems do not have full access to the secure audiovisual object." Independent claim 12 recites in part "wherein search engine systems do not have full access to the secure graphical or audio object." The Examiner acknowledged that "Burrows does not specifically teach [that] the search engine systems do not have full access to the secure graphical or audio object," and cited Stark to compensate for the acknowledged deficiency of Burrows. (Office Action, page 4.) In fact, Stark has nothing at all to do with accessing secure audiovisual objects as recited in claims 1 and 12, and certainly does not teach or suggest "that search engine systems do not have full access to the secure audiovisual object." Further, Stark teaches away by expressly disclosing that the spider ignores resources that are inaccessible.

Stark teaches no more than that a "spider," used by a search engine to index websites, may honor "the robot exclusion protocol." (Stark, 9: 34-35.) According to the robot exclusion protocol, a website can maintain a file, "robot.txt," indicating resources within the website that the spider should not index. (Stark, 9: 37-40.) However, as Stark acknowledges, whether a spider "honors the robot exclusion protocol" is totally within the discretion of the spider's programmer. (See Stark, 9: 34-44.) That is, under the robot exclusion protocol, a search engine has full access to all resources listed in the robot.txt file, but honors a request, made by listing a resource in the robot.txt file, not to access the resource. Claim 1, in contrast, recites that "search engine systems do not have full access to the secure audiovisual object," thus, Stark not only fails to teach or suggest this recitation of claims 1 and 12, but Stark actually teaches away from this recitation.

Therefore, to the extent that Stark is relevant at all, Stark teaches away from Appellants' claims because Stark suggests that a search engine would have full access to resources within a website. Stark further teaches away by expressly disclosing that the spider

ignores resources that are inaccessible. Referring to Stark's FIG. 4, Stark discloses that the spider "uses the hypertext transfer protocol (http) for exploring each resource to gather information (e.g. metadata) . . . if the resources are accessible." (Stark, 6: 27-33.) Further, referring to Stark's FIG. 7, Stark discloses that the spider "first determines whether the corresponding resource is accessible (step 260). If not, the method changes the state indicator in the resource object to 'inaccessible' (step 262) and moves on to explore other resources (step 264)." (Stark, 8:48-52.) Clearly, in disclosing detailed mechanisms for addressing the full accessibility of various objects, Stark teaches away from "search engine systems [that] do not have full access to the secure audiovisual [or graphical or audio] object."

c) "obfuscating at least a portion of the index information . . ."

Independent claims 1 and 12 recite in part "obfuscating at least a portion of the index information so that the intelligibility of the contents of the index information is reduced." The Examiner asserted that Burrows anticipates the foregoing by teaching that the size of an index can be reduced by removing commonly occurring English words such as "a," "the," "of," and "in." (Office Action, page 3.)

Obfuscating at least a portion of the index information ensures that the index information may not be readily used for purposes other than indexing. (Specification, page 9, lines 26-28.) Moreover, "the obfuscation process modifies the index information such that if the index information was viewed by a user, the user would not be able to easily reconstruct the original content of the source data object." (Specification, page 20, lines 25-28.) Appellants' Figure 10, and accompanying disclosure, illustrates several embodiments of an obfuscating process. Specifically, "[t]he obfuscating process transforms the index information in such a way as to obscure or confuse the meaning of the information without interfering with the ability of an IR system to properly index and retrieve the electronic document." (Specification, page 23, lines 13-16.) Neither Burrows, nor Stark, teach or suggest "obfuscating at least a portion of the index information so that the intelligibility of the contents of the index information is reduced."

In fact, the compression scheme disclosed by Burrows simply teaches storing frequently occurring words in common locations in an index because "compressing the locations minimizes the number of bytes consumed to express the numerous locations of

common words which appear close to each other." (Burrows, 11: 48-62.) Clearly, Burrows' objective is not "obfuscating at least a portion of the index information," but is rather to preserve – and yet store efficiently – as much index information as possible. That is, Burrows does not teach "that the intelligibility of the contents of the index information is reduced," but rather quite clearly sets forth the object of maximizing the intelligibility of the contents of the index information. Thus, Burrows actually teaches against "obfuscating at least a portion of the index information so that the intelligibility of the contents of the index information is reduced."

For at least the foregoing reasons, the rejections of 1 and 12, and also claims 2-11 and 13-18 depending therefrom respectively, should be reversed.

3. Dependent Claims 2 and 13

a) "dynamically generating an electronic document which comprises at least a portion of the obfuscated index information"

Claim 2 depends from claim 1, and claim 13 depends from claim 12. Each recites "dynamically generating an electronic document which comprises at least a portion of the obfuscated index information." The Examiner's rejection of claim 13, which was applied to claim 2, asserted that Burrows teaches the foregoing recitation. (Office Action, page 7.) More specifically, the Examiner pointed to the indexing module disclosed by Burrows. (Office Action, page 5.)

Among other things, "dynamically generating" can include "(i) preparing in real-time an electronic document or (ii) transmitting a pre-prepared electronic document that is associated with the URL and that is customized particularly for a selected requestor." (Specification, page 9, lines 20-23.) As disclosed in Appellants' Specification, "[u]pon receiving the request, the server computer 110 determines whether the requester is the client computer 115 or one of the IR systems 208A-208M," and "[i]f the request is from one of the IR systems . . . [then] the server computer 110 dynamically generates an electronic document that includes the index information for the source data object of the network request." (Specification, page 10, lines 17-21.) Burrows, on the other hand, teaches a search engine that downloads web pages and indexes the words on each web page. Burrows fails to teach or suggest dynamically generating an electronic document, and Burrows further fails to teach

or suggest dynamically generating an electronic document that comprises at least a portion of obfuscated index information.

In fact, Burrows simply teaches that web pages are indexed by sorting "the pairs 400, first in word order, and second in location order." (Burrows, 5:40-41.) Further, Burrows teaches that words from a web page are stored with location information, showing where on the web page those words appear. (Burrows, 5: 54-56.) Burrows fails to teach or suggest "dynamically generating an electronic document that comprises at least a portion of the obfuscated index information."

For at least the foregoing reasons, the rejections of claim 2 and 13, and any claims depending therefrom, should be reversed.

4. Dependent Claims 3, 14, 20, and 26

a) "wherein dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document" and "wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems"

Claim 3 depends from claim 2, which depends from claim 1, and claim 14 depends from claim 12. Each recites "wherein dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document." Claim 20 depends from claim 19, and claim 26 depends from claim 25. Each recites "wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems." The Examiner's rejection of claim 14, which was applied to claims 3, 20, and 26, asserted that Burrows teaches the foregoing recitation. (Office Action, page 7, 8, 10.) More specifically, the Examiner pointed to Burrows' disclosure of creating multiple levels of summaries of a compressed data structure using sampling techniques. (Burrows, 12: 62-66.)

Creating multiple levels of summaries means that "a very large index can be searched using a minimal number of time-consuming disk I/O operations." (Burrows, 13: 52-54). The Examiner pointed out that Burrows teaches that if "the size of the summary data structure 72

becomes too large to store entirely in the dynamic memories 144, the third level summary data structure 73 can dynamically be generated." (Burrows, 13: 39-42.) However, Burrows merely teaches that a large index can be summarized using various sampling techniques to reduce memory usage and disk I/O time.

Burrows fails to teach or suggest "dynamically generating the electronic document based at least in part upon the indexing characteristics of one or more search engine systems." Moreover, Burrows fails to disclose a system that can even recognize various characteristics of a search engine system, let alone a system that dynamically generates an electronic document based on such characteristics.

For at least the foregoing reasons, the rejections of claims 3, 14, 20, and 26 should be reversed.

5. Dependent Claim 7

a) "converting at least a portion of the secure audiovisual object into index information text comprises identifying one or more words in the lyrics of the music"

Claim 7 depends from claim 6, which depends from claim 1. Dependent claim 7 recites "converting at least a portion of the secure audiovisual object into index information text comprises identifying one or more words in the lyrics of the music." The Examiner alleged that Burrows teaches this recitation of claim 7, citing Burrows, col. 4, lines 27-44. (Office Action, page 7.) However, Burrows makes no mention, let alone teaches or suggests, "identifying one or more words in the lyrics of the music." Burrows simply discloses that web pages can include "multimedia content, such as software programs, graphics, audio signals, videos, and so forth." (Burrows, 4: 30-38.) Although Burrows discloses that web pages may include multimedia content, Burrows fails to teach "converting at least a portion of the secure audiovisual object into index information text" [by] "identifying one or more words in the lyrics of the music." For at least the foregoing reasons, the rejection of claim 7 should be reversed.

6. Dependent Claim 9

a) "converting at least a portion of the secure audiovisual object into index information comprises reading close captioned information that is associated with the secure audiovisual object"

Claim 9 depends from claim 8, which depends from claim 1. Dependent claim 9 recites "converting at least a portion of the secure audiovisual object into index information comprises reading close captioned information that is associated with the secure audiovisual object." The Examiner alleged that Burrows teaches this recitation of claim 9, and cited Burrows, col. 6, lines 16-29. (Office Action, page 7.) However, Burrows makes no mention of reading close captioned information, let alone teaches or suggests the foregoing recitation. For at least the foregoing reasons, the rejection of claim 9 should be reversed.

7. Dependent Claims 4-6, 8, and 13-18

Claims 4-6, and 8 depend from independent claim 1, and claims 13-18 depend from independent claim 12. For the reasons stated above, neither Burrows nor Stark, either alone or in combination, teaches or suggests numerous recitations of claims 1 and 12. Therefore, dependent claims 4-6, 8, and 13-18 are allowable over the cited prior art and the rejections of these claims should be reversed for at least the foregoing reasons.

8. Claim 19

a) "said web server operable to manage a content owners secure graphical or audio objects . . . wherein search engine systems are denied access to said objects"

Claim 19 recites in part "said web server operable to manage a content owner's secure graphical or audio objects . . . wherein search engine systems are denied access to said objects." The Examiner acknowledged that Burrows does not disclose that "search engines are denied access to [secure graphical or audio] objects," and cited Stark to compensate for the acknowledged deficiency of Burrows. As discussed above, neither Burrows nor Stark teaches or suggests "secure graphical or audio objects."

Stark does not teach that search engine systems are denied access to any objects. Instead, as discussed above, Stark teaches a robot.txt file that does not deny a search engine system access to any resource, but rather lists resources that a web administrator requests the search engine system not to access. The search engine system may choose to honor the robot.txt file, or it may access the resources listed in the robot.txt file regardless of the web

administrator's request not to do so. In either case, resources listed in the robot.txt file may be accessed by the search engine system. Thus, at least for the reasons stated herein, Stark does not teach or suggest that "search engines are denied access to [secure graphical or audio] objects." Further, Burrows and Stark are incapable of combination.

Claim 19, and also claims 20-24 depending therefrom, are allowable over the cited prior art and the rejections of these claims should be reversed for at least the foregoing reasons.

9. Claims 19 and 25

a) "wherein the secure graphical or audio object is secure and that the search engine system does not have full access to the secure graphical or audio object . . . " and "wherein search engine systems do not have full access to the secure graphical or audio object . . . "

Claim 19 recites in part "wherein the secure graphical or audio object is secure and that the search engine system does not have full access to the secure graphical or audio object." Claim 25 recites in part "wherein search engine systems do not have full access to the secure graphical or audio object."

For the reasons stated above in the discussion of claims 1 and 12 in section II(A)(2)(b) of this paper (page 17), neither Burrows nor Stark, either alone or in combination, teaches or suggests this recitation in claims 19 and 25. Therefore, claims 19 and 25, and also claims 20-24 and 26-27 depending therefrom, respectively, are allowable over the cited prior art and the rejections of these claims should be reversed for at least the foregoing reasons.

10. Dependent Claims 20-24, 26, and 27

Claims 20-24 depend from independent claim 19. Claims 26 and 27 depend from independent claim 25. For the reasons stated above, neither Burrows nor Stark, either alone or in combination, teaches or suggests numerous recitations of claim 19 or claim 25. Therefore, dependent claims 20-24, 26, and 27 are allowable over the cited prior art and the rejections of these claims should be reversed for at least the foregoing reasons.

B. Stark And Burrows Are Incapable Of Combination.

Even if Burrows or Stark were relevant to Appellants' claims, Stark and Burrows are incapable of combination. Burrows teaches an Internet search engine for indexing and searching millions of Internet web pages, and returning qualified web pages to a user in response to a user's query. (Burrows, Abstract.) Burrows discloses that the purpose of the disclosed search engine is "to identify pages of interest among the millions of pages which are available on the Web." (Burrows, 4: 56-58.) Burrows further discloses that the system only stores index entries, where an index entry represents a unique word and one or more location entries indicating where the unique word occurs on the web page. (Burrows, 5: 27-31.) Burrows further discloses that "the number of different unique words can be well over one hundred million . . . [and] [t]he extremely large size of the index 70, and its increasing size present special processing problems." (Burrows 5: 58-65.)

Stark, on the other hand, teaches a system for creating a resource map that provides a graphical representation of the hyperlink structure of a website. (Stark, 6: 66-67). For example, such a resource map is useful for web designers to graphically view the structure of a web site. (Stark, 1: 35-44.) Stark further discloses that information about the hyperlink structure that is extracted from a web site is stored in a self-contained persistent data store. (Stark, Abstract.) Further, Stark discloses that the system explores websites that are chosen by a user. (Stark, 6: 1-10.)

Stark and Burrows are incapable of combination for at least the following reasons. First, a user of the Burrows system would not search millions of web pages using a graphical representation of a hyperlink structure of a web site. Second, a user of the Stark system would not want or need to search through millions of web pages while viewing a graphical representation of the hyperlink structure of a web site. Third, Burrows discloses that the system discards most of the information in a web page (i.e. the hyperlink structure), while Stark discloses storing the extracted information (i.e. the hyperlink structure) in a persistent data store. Fourth, Burrows discloses that the size of the index creates processing problems. So, one of ordinary skill in the art would recognize that by indexing millions of web pages, and simultaneously storing the hyperlink structure of complete web sites, the resulting system would be inoperable due to, inter alia, the volume of data to process. As such, Stark and Burrows are directed toward different purposes, use contradictory methods, and are simply incapable of combination for many reasons.

At least because Burrows and Stark are incapable of combination, independent claims 1, 12, 19, and 25 are allowable over the prior art of record. Therefore, for at least the foregoing reasons, the rejections of claims 1, 12, 19, and 25, and also claims 2-11, 13-18, 20-24, and 26-27 depending therefrom respectively, should be reversed.

VIII. CONCLUSION

In view of the foregoing arguments, Appellants respectfully submit that the pending claims are novel over the cited references. The Examiner's rejections of all pending claims are improper because the prior art of record does not teach or suggest each and every element of the claimed invention. In view of the above analysis, a reversal of the rejections of record is respectfully requested of this Honorable Board.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under Order No. 66703-0002, from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

Respectfully submitted,

Dated: January 28, 2008
(the 26th falling on a Saturday)

Electronic signature: /Michael B. Stewart/
Michael B. Stewart
Registration No.: 36,018
Justin S. Cohen
Registration No.: 59,964
RADER, FISHMAN & GRAUER PLLC
Correspondence Customer Number: 10291
Attorneys for Appellants

APPENDIX A – CLAIMS ON APPEAL

Pursuant to 37 CFR § 41.37(c)(vii), the following is a listing of the claims involved in the appeal.

1. A computerized method of providing index information for secure audiovisual objects to a search engine system, the method comprising:

converting at least a portion of a secure audiovisual object into index information, wherein the index information is structured for use in an index database of a search engine system, and wherein the secure audiovisual object is secure in that search engine systems do not have full access to the secure audiovisual object;

obfuscating at least a portion of the index information so that the intelligibility of the contents of the index information is reduced; and

transmitting the obfuscated index information to the search engine system, wherein the obfuscated index information is for use in the index database of the search engine system.

2. The method of claim 1, additionally comprising dynamically generating an electronic document which comprises at least a portion of the obfuscated index information.

3. The method of claim 2, wherein dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document.

4. The method of claim 2, wherein the electronic document comprises a HyperText Markup Language (HTML) file.

5. The method of claim 2, wherein the secure audiovisual object comprises a bitmap image.

6. The method of claim 2, wherein the secure audiovisual object comprises music.

7. The method of claim 6, wherein converting at least a portion of the secure audiovisual object into index information text comprises identifying one or more words in the lyrics of the music.

8. The method of claim 1, wherein the secure audiovisual object comprises a multimedia presentation.

9. The method of claim 8, wherein converting at least a portion of the secure audiovisual object into index information comprises reading close captioned information that is associated with the secure audiovisual object.

10. The method of claim 1, wherein the secure audiovisual object comprises a streaming media file.

11. The method of claim 1, wherein converting at least a portion of the secure audiovisual object into index information comprises reading close captioned information that is associated with the secure audiovisual object.

12. A computerized method of providing index information for secure graphical or audio objects, the method comprising:

reading index information that is associated with a secure graphical or audio object, wherein the index information is structured for use in an index database of a search engine system, and wherein search engine systems do not have full access to the secure graphical or audio object, and wherein search engine systems do not have access to said index information associated with said secure graphical or audio object;

obfuscating at least a portion of the index information so that the intelligibility of the index information is reduced; and

transmitting the obfuscated index information to the search engine system, wherein the obfuscated index information is for use in the index database of the search engine system.

13. The method of claim 12, additionally comprising dynamically generating an electronic document which comprises at least a portion of the obfuscated index information.

14. The method of claim 12, wherein dynamically generating the electronic document comprises customizing, based at least in part upon the indexing characteristics of one or more search engine systems, the content of the electronic document.

15. The method of claim 12, wherein the electronic document comprises a HyperText Markup Language (HTML) file.

16. The method of claim 12, wherein the secure graphical object comprises a bitmap image.

17. The method of claim 12, wherein the secure graphical object is a multimedia presentation.

18. The method of claim 12, wherein the secure graphical object is a streaming media file.

19. A system for generating index information for secure graphical or audio objects, the system comprising:

a web server connected to a network, said web server operable to manage a content owner's secure graphical or audio objects including granting and denying access to secure content requesters, wherein search engine systems are denied access to said objects;

said web server reading index information that is associated with a secure graphical or audio object, wherein the index information is structured for use in an index database of a search engine system, and wherein the secure graphical or

audio object is secure in that the search engine system does not have full access to the secure graphical or audio object;

said web server dynamically generating an electronic document based at least in part upon the contents of the index information; and

said web server transmitting the electronic document to the search engine system, wherein index information within the electronic document is for use in the index database of the search engine system.

20. The method of claim 19, wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems.

21. The method of claim 19, wherein the electronic document comprises a HyperText Markup Language (HTML) file.

22. The method of claim 19, wherein the secure graphical object comprises a bitmap image.

23. The method of claim 19, wherein the secure graphical object is a multimedia presentation.

24. The method of claim 19, wherein the secure graphical object is a streaming media file.

25. A computerized method of generating index information for secure graphical or audio objects, the method comprising:

converting at least a portion of a secure graphical or audio object into index information, wherein the index information is structured for use in an index database of a search engine system, and wherein search engine systems do not have full access to the secure graphical or audio object;

dynamically generating an electronic document based at least in part upon the contents of the index information; and

transmitting the electronic document to the search engine system, wherein index information within the electronic document is for use in a search-optimized index database of the search engine system.

26. The method of claim 25, wherein dynamically generating the electronic document comprises customizing the electronic document, wherein the customizing is based at least in part upon the indexing characteristics of one or more of the search engine systems.

27. The method of claim 25, wherein the electronic document comprises a HyperText Markup Language (HTML) file.

APPENDIX B – EVIDENCE APPENDIX

In this Appeal, Appellants do not rely on any evidence submitted pursuant to 37 CF.R.F. §§ 1.130, 1.131, or 1.132, or on any other evidence entered by the Examiner.

APPENDIX C – RELATED PROCEEDINGS APPENDIX

Not applicable – no related proceedings are referenced herein.